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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON AT SPOKANE**

CHARLES SCHMIDT,

Plaintiff,

v.

THREADLESS CHICAGO, LLC, an
Illinois Corporation,

Defendant.

No. CV-11-236-EFS

VERIFIED COMPLAINT
FOR COPYRIGHT
INFRINGEMENT,
TRADEMARK
INFRINGEMENT,
VIOLATION OF THE
LANHAM ACT, VIOLATION
OF THE WASHINGTON
CONSUMER PROTECTION
ACT

JURY DEMAND

Plaintiff Charles Schmidt alleges and seeks relief against Defendant as follows:

I. PARTIES.

1. Plaintiff Charles Schmidt (“Schmidt” or “Plaintiff”) is an established professional actor, video producer, musician, and graphic and visual artist. Plaintiff is a resident of Spokane, Spokane County, Washington.

2. Upon information and belief, Defendant Threadless Chicago, LLC (“Threadless”) is an Illinois corporation and a wholly-owned subsidiary of skinnyCorp, LLC, with its principal office located in Chicago, Illinois. Defendant Threadless Chicago, LLC, dba Threadless or Threadless.com, operates an interactive Internet website which distributes, advertises, promotes and sells

1 apparel for men, women and children, and various other merchandise items
2 throughout the United States and the world, including the Eastern District of
3 Washington.

4 3. Defendant Threadless Chicago, LLC, is referred to herein as
5 “Defendant.”
6

7 **II. NATURE OF ACTION**

8 4. This is an action for copyright infringement, trademark infringement,
9 violation of the Lanham Act, violation of the Consumer Protection Act, declaratory
10 judgment, injunctive relief, and damages.
11

12 **III. JURISDICTION.**

13 5. This Court has original subject matter jurisdiction of Plaintiff’s
14 copyright infringement claim under 17 U.S.C. § 501 and 28 U.S.C. § 1331, 1332
15 and 1338(a).
16

17 6. This Court has original subject matter jurisdiction of Plaintiff’s
18 trademark infringement claim under 15 U.S.C. § 1121 and 28 U.S.C. § 1331, 1332
19 and 1338(a).
20

21 7. Complete diversity of citizenship exists between the parties. Plaintiff
22 is a citizen of the State of Washington. Upon information and belief, Defendant
23 was formed under the laws of Illinois and exists under the laws of Illinois.

24 8. The amount in controversy exceeds the sum or value of \$75,000,
25 exclusive of interest and costs, in that Plaintiff has been and will be deprived of
26 more than said amount as a result of Defendant’s unlawful copying, reproduction,
27 adaption, and distribution, of Plaintiff’s copyright, Defendant’s unlawful use of
28 Plaintiff’s trademark, and Defendant’s unfair competition.

1 9. This Court has original subject matter jurisdiction of Plaintiff's
2 violation of the Lanham Act claim under 15 U.S.C. § 1121(a).

3 10. This Court has supplemental jurisdiction of Plaintiff's state law claims
4 under 28 U.S.C. § 1367(a).

5
6 11. This Court has personal jurisdiction over Defendant by virtue of the
7 fact that, upon information and belief, Defendant Threadless has sold infringing
8 items that are subject to this action and has transacted business in and has had
9 continuous and systematic contacts with the Eastern District of Washington.

10 **IV. VENUE.**

11
12 12. Venue is proper in the United States District Court for the Eastern
13 District of Washington pursuant to 28 U.S.C. § 1391(a) and (c). Upon information
14 and belief, Defendant Threadless has transacted business in this District and a
15 substantial part of the events or omissions giving rise to the claims herein occurred
16 in this District and a substantial part of the property that is the subject of this action
17 is situated in this District.

18 **V. FACTS.**

19
20 13. In or about April 1986, Plaintiff filmed a video entitled Keyboard Cat
21 (the "Keyboard Cat Video"). The video consists of Plaintiff's orange and white
22 cat, named Fatso, wearing a blue shirt with rolled up sleeves and playing a piano
23 with its front paws. The songs featured in the Keyboard Cat Video were created
24 by Plaintiff.

25 14. Plaintiff registered the audiovisual work with the United States
26 Copyright Office, Registration No. PA 1-696-099. A true and complete copy of
27 the copyright registration is attached hereto as Exhibit A.
28

1 15. Plaintiff is the owner of the mark KEYBOARD CAT (the “Mark”)
2 and has registered the Mark with the United States Patent and Trademark Office,
3 Registration No. 3950558. A true and complete copy of the trademark registration
4 is attached hereto as Exhibit B.

5 16. On or around June 7, 2007, Plaintiff uploaded the Keyboard Cat
6 Video onto the Internet website YouTube. YouTube is a video-sharing website
7 that allows users to upload, display, and view videos throughout the world.
8

9 17. On or around April 15, 2009, the Keyboard Cat Video became widely
10 popular amongst YouTube users and obtained widespread fame through YouTube.
11 To date, the original uploaded Keyboard Cat Video has had more than 16.2 million
12 views by the public. Plaintiff’s YouTube channel, which features the Keyboard
13 Cat Video, has more than 22,000 subscribers. With Plaintiff’s permission,
14 YouTube uses the Keyboard Cat Video as part of its in-site marketing.
15

16 18. Plaintiff was accepted into YouTube’s Content ID program.
17 YouTube’s Content ID program allows Plaintiff to identify user-uploaded videos
18 comprised entirely or partially of Plaintiff’s Keyboard Cat Video. Once identified,
19 Plaintiff can track the videos, have the videos removed from YouTube, or collect
20 ad revenue from the videos.

21 19. The Keyboard Cat Video has since derived extensive commercial
22 value. As a result, Plaintiff has commercially licensed the Video for use to various
23 companies such as Microsoft Corporation, Vringo, MTV, Samsung, Doubletime
24 Productions, PricewaterhouseCoopers, Nokia, Nokia London, and Cat’s Pride Cat
25 Litter, as well as to various television shows, television commercials, television
26 award shows, and motion pictures, including, but not limited to, the following:
27 American Dad!, Current TV’s Top 50 Viral Videos, Channel 4 UK, 2010
28 Australian commercial for Telstra T-Hub, 2010-2011 United States and Canadian

1 commercial for Wonderful Pistachios, 2009 MTV Movie Awards, CNN, and Cats
2 and Dogs 2: The Revenge of Kitty Galore.

3
4 20. Recently, YouTube named the Keyboard Cat Video as the most
5 historically well-known video in YouTube's tongue-in-cheek "100th birthday Top
6 5 Viral Pictures of 1911" on it's April Fool's day promotion, by licensing the video
7 from Plaintiff for a "Flugelhorn Feline" adaption of the video.

8 21. The copyrighted music featured in the Keyboard Cat Video is offered
9 for sale on iTunes. Plaintiff has also released an iPhone application featuring the
10 Keyboard Cat Video entitled "Play Him Off, Keyboard Cat!"

11 22. In 2009, Time Magazine named the Keyboard Cat Video as one of the
12 top five viral videos of the year. In May 2010, Time Magazine named the video
13 number eight on their "YouTube's 50 Best Videos" list.
14

15 23. Plaintiff manufactures, distributes and offers for sale art illustrating
16 Keyboard Cat through www.exitthroughthepetshop.com (the "Keyboard Cat Art").

17 24. Plaintiff has offered for sale Keyboard Cat Video merchandise
18 through Zazzle.com.
19

20 25. In conjunction with Ripple Junction, Plaintiff has offered for sale
21 Keyboard Cat t-shirts at the retail store Hot Topic.

22 26. Plaintiff receives two to five licensing inquiries per month regarding
23 use of the Keyboard Cat Video, the Keyboard Cat Art, the Mark, and the
24 copyrighted music featured in the Keyboard Cat Video.
25

26 27. Plaintiff is currently communicating with apparel companies
27 regarding a new line of shirts, sweatshirts, and other apparel featuring the
28 Keyboard Cat Video, the Keyboard Cat Art, and the Mark.

1 28. Plaintiff has also communicated with toy manufacturers, holiday
2 merchandisers, and application and game developers about manufacturing,
3 distributing and offering for sale future products featuring or portraying the
4 Keyboard Cat Video, the Keyboard Cat Art, and the Mark.

5 29. Upon information and belief, in or around July 2009, Defendant
6 Threadless began copying, manufacturing, distributing, advertising, promoting and
7 offering for sale a t-shirt on the interactive website Threadless.com entitled Three
8 Keyboard Cat Moon (“Three Cat Moon Shirt”) that reproduces and adapts digital
9 snap shots from the Keyboard Cat Video without authorization or license from
10 Plaintiff.

11 30. The Three Cat Moon Shirt features graphics created by Shawn Harris
12 and Emilee Seymour. These graphics include three orange and white cats wearing
13 t-shirts with the sleeves rolled up. Each cat is playing a piano with its front paws.
14 Two of the cats are wearing a shirt that is a variation of blue, one being the same
15 coloring of blue in the Keyboard Cat Video, and the third cat is wearing a yellow
16 shirt. The cats and pianos are set on top of a night time background of illustrated
17 stars and the moon. The inside of the Three Cat Moon Shirt features a screen print
18 tag with graphics of Keyboard Cat and a moon as well as the name of the shirt,
19 “Three Keyboard Cat Moon.” A true and complete copy of screen shots of the
20 Three Cat Moon Shirt page on the Threadless.com website and a picture of the
21 inside screen print label of the Three Cat Moon Shirt is attached hereto as Exhibit
22 C.
23

24 31. Shawn Harris and Emilee Seymour stated on their blog, located on the
25 Threadless.com website, that they created the Three Cat Moon Shirt as an
26 “homage” to the Keyboard Cat Video and Amazon’s t-shirt “3 Wolf Moon,” by
27 creating a mash-up of the “3 Wolf Moon” design and the Keyboard Cat Video.
28

1 They also provided a digital picture of the “3 Wolf Moon” shirt and a digital snap
2 shot of the Keyboard Cat Video with Plaintiff’s website “charlieschmidt.com”
3 displayed in the bottom right hand corner of the digital snap shot. In addition, they
4 refer to the cats in the Three Cat Moon Shirt as “Fatso,” and thank Fatso and
5 Charlie Schmidt for being a part of their Three Cat Moon design project.
6 Threadless users made comments to Shawn Harris and Emilee Seymour’s blog that
7 references Keyboard Cat as the source of the Three Cat Moon Shirt. A true and
8 complete copy of screen shots of Shawn Harris and Emilee Seymour’s blog and the
9 Threadless user comments on the Threadless.com website is attached hereto as
10 Exhibit D.

11
12 32. In or around July 2009, the Three Cat Moon Shirt received the
13 “Bestee Award.” Upon information and belief, the “Bestee Award” is a monthly
14 award given out by Defendant Threadless for best t-shirt design. The award is
15 voted on by Threadless users. A true and complete copy of screen shots of the July
16 2009 “Bestee Award” on the Threadless.com website is attached hereto as Exhibit
17 E.

18 33. In or around August 2009, the Chicago Tribune published an article
19 about Defendant and the popularity of its Three Cat Moon Shirt. A true and
20 complete copy of a print out of the Chicago Tribune article is attached hereto as
21 Exhibit F.

22 34. Upon information and belief, in or around May 2011, in conjunction
23 with Griffin Technology, Defendant Threadless began copying, manufacturing,
24 distributing, advertising, promoting and offering for sale an iPhone 4 Case on the
25 interactive website Threadless.com entitled Three Keyboard Cat Moon (“Three Cat
26 Moon iPhone Case”) that features the same graphics on the Three Cat Moon Shirt
27 which reproduces and adapts digital snap shots from the Keyboard Cat Video
28

1 without authorization or license from Plaintiff. A true and complete copy of screen
2 shots of the Three Cat Moon iPhone Case page on the Threadless.com website is
3 attached hereto as Exhibit G.

4 35. Plaintiff has never endorsed, supported, sponsored or approved of
5 Shawn Harris and Emilee Seymour's unauthorized use of the Keyboard Cat Video
6 for the design of their Three Cat Moon Shirt and Three Cat Moon iPhone Case.
7

8 36. Upon information and belief, in or about 2010, Defendant copied,
9 manufactured, distributed, advertised, promoted and offered for sale the Three Cat
10 Moon Shirt at two Threadless retail stores without authorization of or license to
11 Plaintiff. The two Threadless retail stores are located in Chicago, Illinois.

12 37. Plaintiff has never endorsed, supported, sponsored or approved of
13 Defendant's unauthorized use of the image from the Keyboard Cat Video or its
14 Mark for the copying, manufacturing, distributing, advertising, promoting and
15 offering for sale of the Three Cat Moon Shirt and the Three Cat Moon iPhone
16 Case.
17

18 38. Plaintiff's Twitter account, which also features the Keyboard Cat
19 Video, has more than 10,000 followers. Plaintiff has received multiple tweets to
20 his Keyboard Cat Twitter account in which Twitter users have associated the Three
21 Cat Moon Shirt and Three Cat Moon iPhone Case with Plaintiff. A true and
22 complete copy of screen shots evidencing tweets on May 20, 2011 in which
23 Twitter users associated Plaintiff with the Three Cat Moon Shirt and Three Cat
24 Moon iPhone Case are attached hereto as Exhibit H.

25 39. Plaintiff has repeatedly given notice to Defendant to cease use of the
26 Keyboard Cat Video and Mark. Within those notices, Plaintiff informed
27 Defendant of Plaintiff's copyright and ownership rights in the Keyboard Cat Video
28

1 and trademark and ownership rights in the mark KEYBOARD CAT. Even after
2 several notices from Plaintiff of unauthorized use, Defendant has refused to cease
3 unauthorized use, contending that Defendant is entitled to use portions of the
4 Keyboard Cat Video because Plaintiff abandoned his copyright in the Keyboard
5 Cat Video. A true and complete copy of multiple letters and emails between
6 Plaintiff and Defendant evidencing Plaintiff's notice to Defendant to cease use of
7 the Keyboard Cat Video and Mark is attached hereto as Exhibit I.

8
9 40. Aware that Plaintiff owns the copyright in the Keyboard Cat Video
10 and trademark in the mark KEYBOARD CAT, Defendant continues to copy,
11 manufacture, distribute, advertise, promote and offer for sale the Three Cat Moon
12 iPhone Case at Threadless.com and the Three Cat Moon Shirt at both
13 Threadless.com and the two Threadless retail stores located in Chicago, Illinois.

14 **VI. CLAIMS FOR RELIEF.**

15 **FIRST CLAIM FOR RELIEF** 16 **Copyright Infringement**

17 41. Plaintiff realleges and incorporates by reference the allegations of
18 paragraphs 1 through 40 as if fully set forth herein.

19
20 42. Through the conduct alleged herein, Defendant Threadless has
21 infringed Plaintiff's copyright in the Keyboard Cat Video by reproducing,
22 adapting, distributing, and selling t-shirts embodying the Plaintiff's copyrighted
23 material without Plaintiff's authorization in violation of the Copyright Act.

24 43. Defendant Threadless has facilitated and contributed to infringement
25 by others.

26
27 44. Defendant's infringement has been willful.
28

1 45. As a result of Defendant's willfully infringing acts and contributory
2 infringement, Plaintiff has been injured and has suffered damages in an amount to
3 be proved at trial.

4 46. In addition to Plaintiff's actual damages, Plaintiff seeks such other
5 remedies to which he may be entitled by law, including Defendant's revenues and
6 profits pursuant to 17 U.S.C. § 504(b); injunctive relief pursuant to 17 U.S.C. §
7 502; and impounding and destruction of infringing articles pursuant to 17 U.S.C. §
8 503.

9
10 **SECOND CLAIM FOR RELIEF**
11 **Trademark Infringement**

12 47. Plaintiff realleges and incorporates by reference the allegations of
13 paragraphs 1 through 46 as if fully set forth herein.

14 48. Plaintiff is the owner of the mark KEYBOARD CAT (the "Mark"),
15 and holds a valid and existing federal registration for the Mark. Plaintiff has
16 continuously used the Mark since as early as 1986 and has used the Mark in
17 interstate commerce since May 2009.

18
19 49. Through the conduct alleged herein, Defendant Threadless has
20 infringed Plaintiff's Mark by using the Mark within the title of the Three Keyboard
21 Cat Moon Shirt, on the Three Keyboard Can Moon Shirt itself, and within the title
22 of the Three Keyboard Cat Moon iPhone 4 Case, and has contributorily and
23 vicariously infringed by allowing Shawn Harris and Emilee Seymour to use the
24 Mark within their description of the Three Keyboard Cat Moon Shirt. Such use is
25 likely to cause confusion, mistake, or deception of consumers, to the detriment of
26 Plaintiff.

1 50. Defendant Threadless has facilitated and contributed to infringement
2 by others.

3 51. As a result of Defendant's willfully infringing acts and contributory
4 infringement Plaintiff has been injured and has suffered damages in an amount to
5 be proved at trial.
6

7 52. In addition to Plaintiff's actual damages, Plaintiff claims such other
8 remedies to which he may be entitled by law, including Defendants' revenues and
9 profits pursuant to 15 U.S.C. § 1117(a); Plaintiff's costs of this action pursuant to
10 15 U.S.C. § 1117(a); reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a);
11 injunctive relief pursuant to 15 U.S.C. § 1116; and impounding and destruction of
12 infringing articles pursuant to 15 U.S.C. § 1118.

13
14 **THIRD CLAIM FOR RELIEF**
 Violation of the Lanham Act

15 53. Plaintiff realleges and incorporates by reference the allegations of
16 paragraphs 1 through 52 as if fully set forth herein.
17

18 54. In connection with the Three Cat Moon Shirt and Three Cat Moon
19 iPhone Case featured on Defendant's interactive website, statements made by
20 Shawn Harris and Emilee Seymour within their blog located on the
21 Threadless.com website, comments made and posted on Threadless.com in
22 response to the Three Cat Moon Shirt, and the use of the Keyboard Cat graphic on
23 the Three Cat Moon Shirt and Three Cat Moon iPhone Case, Defendant has used
24 false designations of origin, false or misleading description of fact or false or
25 misleading representation of fact and has advertised and offered goods for
26 distribution and use that are copies of the work of Plaintiff without giving Plaintiff
27 credit, and instead has passed off Plaintiff's work as Defendant's own or as the
28 works of third parties, all in violation of 15 U.S.C. § 1125(a).

1 55. Defendant's acts as alleged herein are likely to cause confusion or to
2 cause mistake or to deceive as to affiliation, connection or association or as to the
3 origin, sponsorship or approval of the federally copyrighted and federally
4 trademarked materials set forth herein.

5 56. As a result of Defendant's violation of 15 U.S.C. § 1125(a), Plaintiff
6 has been injured and suffered damages in an amount to be proved at trial.
7

8 **FOURTH CLAIM FOR RELIEF**
9 **Violation of the Washington Consumer Protection Act**

10 57. Plaintiff realleges and incorporates by reference the allegations of
11 paragraphs 1 through 56 as if fully set forth herein.

12 58. Defendant has engaged in unfair and deceptive acts and practices
13 occurring in trade or commerce in violation of RCW 19.86.
14

15 59. Defendant's acts and practices have impacted the public interest.

16 60. Defendant's unfair and deceptive acts and practices have caused
17 irreparable injury to Plaintiff in his business or property.
18

19 61. Plaintiff will continue to be irreparably harmed unless and until
20 Defendant's unlawful conduct is enjoined.

21 **FIFTH CLAIM FOR RELIEF**
22 **Accounting**

23 62. Plaintiff realleges and incorporates by reference the allegations of
24 paragraphs 1 through 61 as if fully set forth herein.

25 63. As a result of Defendant's conduct described herein, Plaintiff has been
26 monetarily damaged in an amount that cannot yet be fully determined.

27 64. Plaintiff requires an accounting of all monies made and other benefits
28 realized by, and any deductions, expenses and other costs claimed by, Defendant in

1 connection with Defendant's use and exploitation of the Keyboard Cat Video and
2 or any portion thereof, and the Mark, including but not limited to any and all
3 revenue from the sales of the Three Cat Moon Shirt and Three Cat Moon iPhone
4 Case, in order to fully and accurately determine the extent of, and damages
5 resulting from, Defendant's wrongful conduct.

6 **SIXTH CLAIM FOR RELIEF**
7 **Injunctive Relief**

8 65. Plaintiff realleges and incorporates by reference the allegations of
9 paragraphs 1 through 64 as if fully set forth herein.

10 66. As described herein, Plaintiff is the rightful owner of all rights, title
11 and interest in and to the Keyboard Cat Video and Mark.

12 67. Plaintiff faces continuing and irreparable harm if Defendant is not
13 required to cease all copying, manufacture, distribution, release, sale, license or
14 other exploitation of the Three Cat Moon Shirt or any portion thereof and the
15 Three Cat Moon iPhone Case or any portion thereof.

16 68. Defendant's copying, manufacture, distribution, release, sale, license
17 or other exploitation of the Keyboard Cat Video or any portion thereof, and the
18 Mark, significantly reduces the licensing value of the Keyboard Cat Video and
19 Mark to Plaintiff and otherwise impairs Plaintiff's ability to exploit his exclusive
20 rights in and to the Keyboard Cat Video and the Mark, in contravention of
21 Plaintiff's sole ownership of all rights, title and interest in and to the Keyboard Cat
22 Video and Mark. Plaintiff therefore does not possess an adequate remedy at law to
23 prevent the immediate and continuing injuries described herein, and is likely to
24 prevail on the merits of his claims.

25 69. Plaintiff therefore requests that Defendant, and its agents, employees,
26 representatives, successors and assignees and all persons, firms or corporations in
27
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1 active concert or participation with Defendant, be preliminarily and permanently
2 enjoined from copying, manufacturing, distributing, releasing, selling, licensing or
3 otherwise exploiting in any form whatsoever, the Keyboard Cat Video and Mark or
4 any copies or portions thereof.

5 **SEVENTH CLAIM FOR RELIEF**
6 **Declaratory Judgment**

7
8 70. Plaintiff realleges and incorporates by reference the allegations of
9 paragraphs 1 through 69 as if fully set forth herein.

10 71. Plaintiffs request that this Court issue a declaratory judgment pursuant
11 to 28 U.S.C. § 2201, *et seq.*

12 72. There is an actual and existing controversy between Plaintiff and
13 Defendant because the parties have a genuine dispute regarding the ownership of
14 the Copyright in the Keyboard Cat Video. Upon information and belief, Defendant
15 contends, and Plaintiff denies, that Defendant is entitled to use any portion of the
16 Keyboard Cat Video because Plaintiff abandoned his copyright in the Keyboard
17 Cat Video by permitting third-parties to create “mash-ups” featuring the Keyboard
18 Cat Video. Plaintiff contends, and Defendant denies, that Defendant is not entitled
19 to use any portion of the Keyboard Cat Video because Plaintiff did not surrender
20 his copyright in the Keyboard Cat Video and because Plaintiff did not and does not
21 have any intention to surrender his copyright in the Keyboard Cat Video.
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26 73. Plaintiff and Defendant have direct and substantial interests in this
27 controversy.
28

1 74. A judicial determination of the controversy will be final and
2 conclusive as to the rights and obligations of the parties.

3 75. Therefore, it is necessary and proper that this Court adjudicate and
4 declare that Plaintiff owns the copyright and ownership rights in the Keyboard Cat
5 Video that are subject to this litigation.
6

7 76. Plaintiff also requests all other necessary or proper ancillary relief
8 pursuant to 28 U.S.C. § 2201 *et seq.*

9 **VII. PRAYER FOR RELIEF.**
10

11 WHEREFORE, Plaintiff respectfully requests judgment and other relief
12 against Defendant as follows:

13 1. Declaring that
14

15 (a) Plaintiff owns the copyright and ownership rights in the Keyboard
16 Cat Video that are subject of this litigation;

17 (b) Defendant has:
18

19 i. Willfully infringed the rights of Plaintiff in Plaintiff's
20 federally registered copyright under 17 U.S.C. § 501;

21 ii. Willfully infringed the rights of Plaintiff in Plaintiff's
22 federally registered trademark under 15 U.S.C. § 1114;

23 iii. Committed and is committing acts of false designation of
24 origin, false or misleading description of fact, and false or
25 misleading representation against Plaintiff as defined in 15
26 U.S.C. § 1125(a);
27
28

iv. Otherwise injured the business reputation and business of Plaintiff by Defendant's acts, conduct and omission as set forth in this Complaint;

2. Granting temporary, preliminary and permanent injunctive relief against Defendant, and that Defendant, its officers, agents, representatives, employees, attorneys, successors and assigns, and all other in active concert or participation with Defendant, enjoining and restraining them from:

(a) Imitating, copying, or making any other unauthorized use or unauthorized distribution of material protected by Plaintiff's registered copyright;

(b) Reproducing, counterfeiting, copying, or imitating Plaintiff's registered trademark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, mistake, or deception;

(c) Engaging in any other activity constituting an infringement of Plaintiff's copyright and trademark, or right to use or to exploit said copyright and trademark;

(d) Disposing of or destroying any documents or related materials that show, indicate, reference, or otherwise document that Defendant has copied, manufactured, distributed, released, sold, licensed or otherwise exploited counterfeit or infringing material products which use, incorporate or adopt Plaintiff's copyrighted material, Plaintiff's trademark, or other creative material;

(e) Engaging in acts of false designation of origin, false or misleading description of fact, and false or misleading representation against Plaintiff as defined in 15 U.S.C. § 1125(a); and

(f) Assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (e) above.

3. Ordering the impounding all copies made or used in violation of Plaintiff's exclusive rights, and all t-shirts, screen prints, cellular phone cases and covers, digital prints, electronically saved files or other articles by means of which such copies may be reproduced;
4. Ordering the impounding all labels, signs, prints, packages, wrappers, receptacles, and advertisements in the possession of Defendant, bearing Plaintiff's Mark;
5. Ordering destruction of all copies found to have been made or used in violation of Plaintiff's rights and of all t-shirts, screen prints, cellular phone cases and covers, digital prints, electronically saved files or other articles by means of which such copies may be reproduced;
6. Ordering destruction of all labels, signs, prints, packages, wrappers, receptacles, and advertisements in the possession of Defendant, bearing Plaintiff's Mark;
7. Requiring Defendant to account to Plaintiff for any and all uses and any and all profits derived by Defendant from the sale and use of Plaintiff's work and for all damages sustained by Plaintiff by reason of said acts of infringement and unfair competition;

8. Awarding Plaintiff damages as well as Defendant's revenues and profits attributed to the copyright infringement under 17 U.S.C. § 504(b) and 15 U.S.C. § 1117(a);
9. Awarding Plaintiff damages as well as Defendant's revenues and profits attributed to the trademark infringement under 15 U.S.C. § 1117(a); Plaintiff's costs of this action pursuant to 15 U.S.C. § 1117(a); and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a).
10. Awarding Plaintiff actual damages, treble damages, interest, costs and reasonable attorneys' fees under the Washington Consumer Protection Act, RCW 19.86;
11. Awarding such other and further relief as the Court may deem just and proper under the circumstances.

JURY DEMAND

Plaintiff demands trial by jury of all issues so triable in this matter.

1 DATED this 21st day of June 2011.

2 Respectfully submitted,

3 HENDRICKS & LEWIS, PLLC
4

5
6 By: s/ Caitlin A. Bellum

7 Caitlin A. Bellum, WSBA No. 41888

8 Katherine Hendricks, WSBA No.14040

9 901 Fifth Avenue, Suite 4100

10 Seattle, Washington 98164

11 Email:kh@hllaw.com

12 Email:cab@hllaw.com

13 Telephone: (206) 624-1933

14 Facsimile: (206) 583-2716

15 Attorneys for Plaintiff Charles Schmidt
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VERIFICATION

I, Charles Schmidt, declare under penalty of perjury that the foregoing factual matters set forth in the Complaint for Injunctive Relief and Damages for: (1) Copyright Infringement; (2) Trademark Infringement; (3) Violation of Lanham Act; (4) Violation of the Washington Consumer Protection Act; (5) Accounting; (6) Injunctive Relief are true and correct and as to those matters stated upon information and belief are believed to be true and correct.

6-20-11
Date


Charles Schmidt